IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.MC.No. 7639 of 2002()

CRIME NO.170/2002 OF CHALAKKUDY POLICE STATION

PETITIONER: ACCUSED

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1. E.D.PAUL, S/O.DEVASSY,
   EDAKKULATHUR HOUSE, SUNDARIKKAVALA,
   MUKUNDAPURAM.

2. RAMACHANDRAN, MANAGER,
   CHALAKKUDY AUTO CREDITS PRIVATE LIMITED,
   SOUTH JUNCTION, CHALAKKUDY.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: STATE & COMPLAINANTS

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1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   CHALAKKUDY POLICE STATION,
   CHALAKKUDY.

3. OUSEPH, S/O.KAREDAN LONAPPAN,
   KUVVAKATTUKUNNU DESOM, MELOOR VILLAGE,
   MUKUNDAPURAM TALUK.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.5942/2002 IN CRL.M.C.NO.7639/2002

CLOSED

SD/-K.R.UDAYABHANU, JUDGE

22/08/2007

\\TRUE COPY//

K.R.UDAYABHANU, J.

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Crl.M.C.No.7639 of 2002-D

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Dated this the 22nd day of August, 2007

O R D E R

The petitioners are accused in Crime No.170/2002 of Chalakkudy Police Station. Further proceedings have been stayed as per order in Crl.M.P.No.5942/2002. The petitioners have sought for getting quashed the above proceedings. The petitioners are the Managing Director of Chalakkudy Auto Credit Private Ltd. and the Manager, respectively. The crime has been registered vide Annexure A12 F.I.R with respect to the offences under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code on the basis of a private complaint filed by the third respondent (Annexure-A11) alleging that the petitioners have unauthorisedly fabricated the blank cheque issued towards additional security of the hire purchase of the lorry owned by him and a case has been instituted before the Judicial Magistrate of the First Class, Chalakkudy. It is the case of the petitioners that the third respondent had availed a hire purchase facility for a sum of Rs.99,500/- payable in 30 equal monthly instalments of

Rs.3,250/- per month. The third respondent effected payment only up to the sixth instalment. Thereafter, there was no repayment. It is the case of the petitioner that the vehicle was subsequently surrendered by the third respondent which is evident from Annexure-5 issued by the third respondent. It is also alleged that the third respondent had filed a private complaint against the first petitioner alleging that the first petitioner forcibly took away the lorry while the same was being driven by the son of the third respondent. The above private complaint forwarded to the police under Section 156(3) Cr.P.C was investigated by the police and a refer report was filed which is Annexure-3. It is submitted that the third respondent has not taken any further action on the refer report. It is the case of the third respondent/de facto complainant that the lorry under hire purchase of the first petitioner institution was given to one Jaison for running the same and that he has seen failed to remit tax etc. The third respondent filed a petition before the police and, as directed by the C.I. Pudukkad, the vehicle was taken into custody and the same was handed over to the third respondent.

While so, the first petitioner/the first accused, forcibly took possession of the vehicle and against which the case was registered as Crime No.605/2001 by the Chalakkudy Police, according to the third respondent, as per Annexure-11 complaint. It is on account of the above enmity that the petitioners/accused have forged a cheque for Rs.75,000/- and instituted the proceedings.

2. I find that Crime No.605/2001 has been referred by the police. Of course, there is a dispute with respect to the amount taken by way of hire purchase which according to the third respondent is only Rs.65,000/-. It appears that the proceedings in Crime No.170/2002 has been initiated apparently as an act of reprisal. It is also to be noted that there is no appearance for the third respondent before this Court. In the circumstances, the proceedings initiated vide Crime No.170/2002 by Chalakkudy Police Station is herewith quashed with liberty to the third respondent to raise all the contentions in the case instituted by the first petitioner on the basis of the allegedly forged cheque.

It is submitted that the vehicle in the custody of the court has not so far been released although the case has been closed. The police have filed a refer report and that the third respondent has not taken any further action in the matter. If any petition for custody of the vehicle is filed, the Magistrate is directed to dispose of the same at the earliest.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.M.C.No.7639 of 2002-D

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O R D E R

22nd August, 2007